

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

SB 92 – HB 81

March 21, 2015

SUMMARY OF ORIGINAL BILL: Makes several changes to the Tennessee Petroleum Underground Storage Tank Act (UST Act) including the prohibiting of any person to place petroleum substances in underground storage tanks or to dispense petroleum substances from underground storage tanks when the owner has not notified the Commissioner of the Department of Environment and Conservation (TDEC) of the existence or ownership of the tank; authorization for the Commissioner of TDEC to bring suit in the name of the Department for certain violations of the Tank Act; deletion of a notice requirement concerning tank fees made by the Department; authorization for tank owners to file written petitions with the Commissioner requesting refunds of annual fees, or for reductions to penalties, under certain specified circumstances; specification that funds which are in excess of \$50,000,000 in the Petroleum Underground Storage Tank Fund (UST) be considered “unobligated” funds prior to any transfer to the Highway Fund; clarifies that no part of the Fund shall revert to the General Fund; specification that the Fund be responsible for up to a maximum of \$2,000,000 of cleanup costs for sites still undergoing corrective action on July 1, 2015, and releases that occur on or after July 1, 2015; deletion of a section related to the voluntary registry for persons who own an interest in petroleum sites; and deletion of provisions related to public hearings, meetings, and compensation of the Underground Storage Tanks and Solid Waste Disposal Control Board.

Makes changes to the Tennessee Hazardous Waste Management Act of 1977 including the Board being regulated pursuant to Tenn. Code Ann. § 68-212-113, rather than pursuant to the Uniform Administrative Procedures Act, with respect to serving as a board of appeals that review certain actions of the Commissioner; and increasing from five to eight the number of Board members required to constitute a quorum.

Makes a change to the Hazardous Waste Management Act of 1983 by authorizing the Board to hear certain appeals as provided by Tenn. Code Ann. § 68-212-113.

Makes changes to the Tennessee Solid Waste Disposal Act including changing the Commissioner of Economic and Community Development and the Commissioner of TDEC from non-voting members to voting members of the Board; authorization for any person to be heard by the Board on matters related to petroleum underground storage tank issues, in addition to solid waste matters; specification that the Board shall act as a board of appeals as provided in the Tank Act, in addition to the Disposal Act; and reduction of the number of required meetings for the Board from six to four in any calendar year.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

SB 92 – HB 81 (CORRECTED)

Increase State Expenditures –

Up to \$1,000,000/Petroleum Underground Storage Tank Fund

Other Fiscal Impact – Since the bill raises the maximum reimbursement from the Petroleum Underground Storage Tank Fund to \$2,000,000 per incident (up from \$1,000,000), to the extent reimbursement requests exceed \$1,000,000 per incident state expenditures from the fund could increase by up to \$1,000,000. According to TDEC, since the fund's inception in 1988, there have been 13 incidents when the reimbursement request exceeded the current \$1,000,000 maximum. Per TDEC, those requests averaged \$1,125,000 (i.e. \$125,000 above the current maximum reimbursement limit).

Included in the Governor's FY15-16 proposed budget is \$125,000 in recurring state expenditures from the Petroleum Underground Storage Tank Fund.

SUMMARY OF AMENDMENT (004036): Deletes section one of the original bill that made a non-substantive technical correction; changes the effective date, regarding changes applicable to the Commissioners of Economic and Community Development and TDEC becoming voting members of the Board, to July 1, 2016; all other sections will remain effective as of July 1, 2015.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On March 9, 2015, a fiscal memorandum was issued for the amended bill with the following estimated impact:

Unchanged from the original fiscal note.

Given the fiscal note for the original bill was corrected on March 21, 2015, the fiscal impact for the amended bill is being corrected as follows:

(CORRECTED)

Unchanged from the corrected fiscal note.

Assumptions for the bill as amended:

- Based on the information provided by TDEC, the only provisions of the bill as amended that will cause a significant fiscal impact are the provisions related to the Petroleum Underground Storage Tank Fund and the established maximum payout for cleanup costs.
- As of October 2014, the UST Fund had a balance of \$47,576,666.
- Under current law, the maximum reimbursement for cleanup costs is capped at \$1,000,000.

- According to TDEC, there have been 13 requests for payment since 1988 for which the amount requested exceeded the current \$1,000,000 maximum; the amount subsequently paid in these instances was \$1,000,000.
- Increasing the maximum reimbursement amount from \$1,000,000 to \$2,000,000 is estimated to increase expenditures from the UST Fund.
- The fiscal impact to the UST Fund is dependent upon several unknown factors such as the number of requests that exceed the current \$1,000,000 maximum, the extent to which any request exceeds \$1,000,000, and the extent to which payment is made that is greater than \$1,000,000 but is equal to or less than \$2,000,000.
- According to TDEC, the average amount of payments requested in excess of \$1,000,000 has been \$125,000. This encompasses the 13 instances since fund inception in 1988.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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